

PATENTS**UNITED STATES PATENT AND TRADEMARK OFFICE**

Application: 10/810,354

Examiner: Dickinson, Paul

Filed: 03/26/2004

Art Unit: 1618

Inventor: Beckman et al.

Atty. Ref.: END5095USNP.0515520

Title: **APPARATUS AND METHOD FOR MARKING TISSUE****RESPONSE TO RESTRICTION/ELECTION REQUIREMENTS**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This paper is being filed in response to the Restriction/Election Requirement mailed on 06/09/2008. In particular, Applicant was required to elect from Group I (Claims 1-60) and Group II (Claims 61-98), which were deemed to relate to distinct inventions.

Applicant hereby elects to prosecute the claims of Group II (Claims 61-98), without traverse, and without prejudice. Applicant reserves the right to pursue the claims of Group I (Claims 1-60) at a later date.

Applicant was also required to elect a single species from the following groups of species:

Species A: a non-bioabsorbable material;

Species B: an X-ray detectable object of specific predetermined non-biological configuration embedded in the body of the marking device;

Species C: a material selected from the group listed in Claim 4;

Species D: a specific species of polymer or specific combination of polymer species;

Species E: a radiopaque additive;

Species F: an active agent;

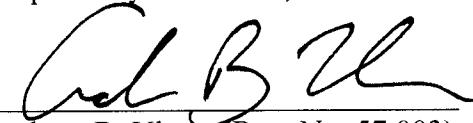
Species G: a bio-resorbable polymeric material;
Species H: a binding agent; and
Species I: a biodegradable shell.

Applicant hereby elects Species D (a specific polymer or combination of polymers), specifically, the hydrogel species of polymer. This election of species is made without traverse, and without prejudice. Applicant submits that, from the claims of elected group II (Claims 61-98), Claims 61-98 encompass the elected species. Applicant reserves the right to pursue Species A-C and E-I at a later date, and to have Species A-C and E-I reconsidered upon allowance of one or more generic claims.

In addition to the above, Applicant was required to elect a single species of pharmaceutical agent.

Applicant hereby elects hemostatic agent as the species of pharmaceutical agent, without traverse, and without prejudice. Applicant submits that Claims 61-98 encompass the elected species. Applicant reserves the right to pursue other species of pharmaceutical agent at a later date, and to have other species of pharmaceutical agent reconsidered upon allowance of one or more generic claims.

Respectfully Submitted,



Andrew B. Ulmer (Reg. No. 57,003)
FROST BROWN TODD LLC
2200 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202
(513) 369-4811
aulmer@fbtlaw.com